



VIRGINIA REAL ESTATE APPRAISER BOARD NEWSLETTER

THE VIRGINIA APPRAISER

MAY 1999 VOLUME 11

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL REGULATION

✦ 1999 Legislation ✦

The 1999 General Assembly passed the following laws which will become effective July 1, 1999.

Seal – The requirement for a seal on written appraisal reports has been deleted. This is consistent with the Board's current regulations which do not contain a requirement for a seal. The law does require a signature, license designation and license number. If a seal is used, it must conform to the Board's regulations. HB 2571

Exemption from Licensure – The exemption from licensure section was amended to exempt real estate brokers or salespersons who provide a valuation or analysis of real estate for a fee. Such persons shall not hold themselves out to be real estate appraisers and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser. HB 2334

Board Composition - The composition of the Board changed to allow for more appraiser members. The number of appraiser members increases from four to six, the number of members familiar with mortgage lending of a financial institution decreases from two to one and the number of citizen members decreases from three to two. These changes will be implemented as the terms of current Board members expire. HB 2246 and SB 1243

Fines - The amount of fine any Board within the Department of Professional and Occupational Regulation may impose changed from \$1,000 to \$2,500 per violation.

Copies of the bills may be obtained at www.state.va.us or by contacting the Department of Legislative Services at 804-786-3591.

✦ Instructor Training ✦

The Board will distribute updated course materials to all certified instructors in the near future which will incorporate 1999 USPAP changes and changes in Virginia law. In addition, the Board will conduct a training seminar for all certified instructors on October 26, 1999. A separate notice of this training will be sent to all certified instructors. Continuing education credit will be awarded for attendance at the seminar.

✓ Election of Officers ✓

The Board re-elected Joseph S. Durrer, Jr. as chairman and elected Robert A. Whaley vice-chairman at its meeting on April 20, 1999.

⇒ Signatures on Appraisal Reports

The Board office receives many calls regarding whether an unlicensed individual may sign a report. The answer is yes, with limitations. Section 54.1-2009 of the Code of Virginia prohibits an unlicensed individual from using the terms "appraiser" or "appraisal". Therefore, when signing on the left side of a URAR report, the word "Appraiser" should be marked through. Note that if the unlicensed individual provides significant professional assistance, he must either sign the report or the licensed appraiser signing the report must disclose the individual's assistance in accordance with USPAP Standards Rule 2-3. **In any case, the licensed appraiser signing the report is responsible for the report and its contents.**

✦ Registry ✦

The Federal Registry is on-line at www.asc.gov.

Investigative Updates



98-02844 - \$300 fine for violation of 18 VAC 130-20-180.E (appraisal report requirements) of the 1998 regulations.

96-01410 - \$2,000 fine and 90-day suspension for violations of § 4.3.3 and § 4.3.4 (development and reporting of appraisal) of the 1995 regulations. Fine waived and suspension stayed if 15-hour USPAP course completed within six months.

96-01207 - \$300 fine and completion of a 15 hour USPAP course for violations of § 4.3.C (development of appraisal) of the 1992 regulations and §§ 4.3.3 and 4.3.4 (development and reporting of appraisal) of the 1995 regulations.

98-02322 - \$500 fine and completion of a 15-hour USPAP course within six months for violations of §§ 4.3.3 and 4.3.4 (development and reporting of appraisal) of the 1995 regulations.

97-02452 - \$300 in costs for violation § 4.3.3 (development of appraisal) of the 1995 regulations.

98-01902 - \$600 fine, \$300 costs and one-year inoperative suspension during which any reports signed as a supervisory appraiser must be submitted to the board for violations of §§ 4.3.2.a (use of seal), 4.3.3 (development of appraisal), 4.3.4 (reporting of appraisal), 4.3.7.a (record keeping requirement), and 4.3.10.a (unworthiness) of the 1995 regulations.

98-01654 - \$1,000 fine, \$300 costs, one year inoperative suspension, and submission of reports on a quarterly basis for six months for violation of § 4.3.3 (development of appraisal) of the 1995 regulations.

98-01804 - \$400 fine, \$300 costs, completion of a 15-hour USPAP course and submission of reports on a quarterly basis for one year for violations of §§ 4.3.3 and 4.3.4 (development and reporting of appraisal) of the 1995 regulations.

98-01653 – One year suspension and \$3,000 fine for violations of §§ 4.3.3 (development of appraisal), 4.3.4 (reporting of appraisal) and 4.3.7.a (record keeping requirements) of the 1995 regulations.

98-02657 – No sanction for violation of § 4.3.4 (reporting of appraisal) of the 1995 regulations.

97-01744 - \$1,200 fine and six month suspension for violations of §§ 4.3.3 and 4.3.4 (development and reporting of appraisal) of the 1995 regulations.

✚ Drive-By Appraisals ✚

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An evaluation or drive-by under any other name is an appraisal assignment that appraisers should exercise great care in developing and reporting. To appraise a property without knowledge of the physical characteristics is impossible unless assumptions as to the physical characteristics are made.

To develop and report such an appraisal, in compliance with USPAP, the appraiser must rely on assumed physical characteristics. The assumptions must be from a reliable source and must be stated in the report, along with reasons for the non-inspection. The source of the information relative to the physical characteristics of the subject improvements should be cited within the report but must be kept as part of the memorandum. If kept in the file memorandum the report should cite the specific source of the physical description.

The decision to develop and report an appraisal without the benefit of inspection is the sole responsibility of the appraiser, not the client. Examples of situations where non-inspection appraisals may be appropriate are hostility of the owner or occupant or vicious animals at the property. Non-inspections because “it was the client’s request,” or “the owner or occupant did not want to be inconvenienced,” or “the lender client was only lending a small amount,” or “MLS descriptions are adequate,” are not appropriate!!!!

In summary, before accepting the “Drive-By” appraisal assignment:

1. make sure the reasons for the non-inspection are justified;
2. obtain a reliable description of the physical characteristics of the improvements and/or site;
3. cite the reasons for the non-inspection within the report;
4. describe the assumed physical characteristics of the property within the report; and,
5. cite the source of the assumed physical characteristics of the property.

?? Questions and Answers ??

These questions and answers have been copied from ASB publications. The responses are based on presumed conditions without investigations or verification of actual circumstances. There is no assurance that the responses represent the only possible solution to the problems discussed or apply equally to seemingly similar situations. For further information, contact the ASB at 202-347-7722.

Q A client asked me not to perform a cost approach in an appraisal assignment, but he doesn't want me to provide a Limited Appraisal either. I have determined that the cost approach is relevant. Can I perform the cost approach and give it consideration in the reconciliation, but not include it in the report (which is a Summary Appraisal Report)?

A If you have determined that the cost approach is *applicable* in this assignment, though *not necessary* in order to result in opinions or conclusions that are credible, then the appraisal would be a Limited Appraisal if you omit the cost approach. To provide the client a Limited Appraisal but allow him to believe that it is *not* a Limited Appraisal would be fraudulent and misleading – and clearly in violation of the Ethics Rule.

Further, Standards Rule 2-2(b)(ix) says the appraiser must, in a Summary Appraisal Report, “summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions and conclusions.” This requirement would not be met if you performed appraisal procedures but did not summarize those procedures in the report. The client and intended users of the report might indeed be misled or confused if discussion of an important part of the appraisal process was omitted from the report and yet that part of the process was relied upon.

You should discuss the assignment further with the client and find out why the client wants you to omit the cost approach yet doesn't want a Limited Appraisal. Perhaps there is some misunderstanding on his part about the concept of departure.

Q A property owner has requested a copy of an appraisal report I prepared for a lender. Who owns an appraisal report, its associated research and supporting documentation?

A USPAP does not specifically address who “owns” an appraisal report, the research necessary to produce that report and the report's supporting documentation.

According to both the last comment to the Record Keeping Section of the ETHICS PROVISION and to Standards Rule 2-2(c)(xi), an appraiser who provides a Restricted Appraisal Report must make available to the client the workfile in support of that report. But, no such requirement is set forth for either Self Contained or Summary Appraisal Reports. Further, in the case of the Restricted Appraisal Report, while the workfile must be made available to the client, the standards do not require that the client be given possession of the workfile.

By contrast, appraisal reports of all kinds are by definition, “...transmitted to the client...” As indicated in Standards Rule 2-2 (c), and further described in Advisory Opinion 12, the decision as to which reporting option is appropriate for any given assignment is reached by both the appraiser and the client. However, once that decision has been competently made, USPAP does not place further responsibility upon the appraiser for the client's use of that report.

An appraiser who receives a request for a copy of an appraisal report must comply with the Confidentiality Section of the ETHICS PROVISION which states:

An appraiser must protect the confidential nature of the appraiser-client relationship.

Comment: An appraiser must not disclose confidential factual data obtained from a client or the results of an assignment prepared for a client to anyone other than: 1) the client and the persons specifically authorized by the client; 2) such third parties as may be authorized by due process of law; and 3) a duly authorized professional peer review committee. As a corollary, it is unethical for a member of a duly authorized professional peer review committee to disclose confidential information or factual data presented to the committee.

The appraiser should also review Statement on Appraisal Standards No. 5 (SMT-5) when receiving such a request.

✦ USPAP ✦

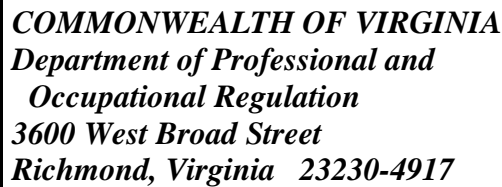
The Board sends a copy of USPAP to licensees every year during the month they renew. USPAP is also available on CD-ROM from the Appraisal Foundation. To place an order, contact the Foundation at 202-347-7722.

Joseph S. Durrer, Jr., Chair, Roanoke
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Robin Rankin, Licensing Staff
Pat Hanchey, Executive Secretary***

918 certified general
879 certified residential
595 licensed residential
88 trainees

October 26



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Richmond, VA

Change of Address? Notify the Board Office.